

Amend 2 Cal. Code Regs. Section 18427 to read:

**§ 18427. Duties of Treasurers and Candidates With Respect to Campaign Statements.**

(a) Treasurers. The treasurer of a committee ~~must~~ shall verify that to the best of his or her knowledge the committee campaign statements are true and complete and ~~must~~ use all reasonable diligence in the preparation of ~~such~~ the statements. To comply with these duties the treasurer shall do all of the following:

(1) Establish a system of record keeping sufficient to ensure that receipts and expenditures are recorded promptly and accurately, and sufficient to comply with regulations established by the Commission related to record keeping;

(2) Either maintain the records personally or monitor ~~such~~ record keeping by others;

(3) Take steps to ensure ~~that~~ compliance with all requirements of the Act concerning the receipt and expenditure of funds and the reporting of ~~such~~ funds ~~are complied with~~;

(4) Either prepare campaign statements personally or review with care the campaign statements and underlying records prepared by others;

(5) Correct ~~any~~ inaccuracies or omissions in campaign statements of which the treasurer knows, and cause to be checked, and, if necessary, corrected, ~~any~~ information in campaign statements ~~which~~ a person of reasonable prudence would question based on all the surrounding circumstances of which the treasurer is aware or should be aware by reason of his or her duties under this regulation and the Act.

(b) Candidates with respect to candidate campaign statements. A candidate ~~must~~ shall verify that to the best of his or her knowledge his or her own campaign statements are true and complete and ~~must~~ use all reasonable diligence in the preparation of ~~such~~ the statements. To comply with these duties the candidate shall be subject to the same duties imposed upon

1    treasurers as stated in subdivision (a) ~~above~~.

2            (c) Candidates with respect to campaign statements of committees they control. A  
3    candidate ~~must~~ shall verify to the best of his or her knowledge that the campaign statements filed  
4    by a committee he or she controls are true and complete and that the treasurer has used all  
5    reasonable diligence in the preparation of ~~such campaign~~ the statements. To comply with these  
6    duties, the candidate shall do all of the following:

7            (1) Ascertain whether the treasurer is exercising all reasonable diligence in the  
8    performance of his or her duties including those duties specified under subdivision (a);

9            (2) Take whatever steps are necessary to replace the treasurer or raise the treasurer's  
10   performance to required standards, if the candidate knows or has reason to know that the  
11   treasurer is not exercising all reasonable diligence in the performance of his or her duties;

12           (3) Review with care the campaign statements prepared for filing by the committee;

13           (4) Correct any inaccuracies and omissions in campaign statements of which the  
14   candidate knows, and cause to be checked, and, if necessary, corrected, any information in  
15   campaign statements ~~which~~ a person of reasonable prudence would question based on all the  
16   surrounding circumstances of which the candidate is aware or should be aware by reason of his  
17   or her duties under this regulation and the Act;

18           (5) Perform with due care any other tasks assumed in connection with the raising,  
19   spending or recording of campaign funds insofar as ~~such~~ the tasks relate to the accuracy of  
20   information entered on campaign statements;

21           (6) Unless such steps are required to meet the standards set forth in ~~the foregoing~~  
22   ~~paragraphs~~ subdivision (c)(1) through (4), a candidate is not responsible for establishing a record  
23   keeping procedure for a committee, monitoring committee record keeping, reviewing campaign

1 finance records other than campaign statements, or personally taking steps to corroborate any  
2 information contained on a campaign statement.

3 (d) Committees where no treasurer is designated. If a committee fails to designate a  
4 treasurer as required by Government Code Section 84100, the ~~person~~ individual or group of  
5 individuals ~~who is~~ primarily responsible for ~~initiating and implementing~~ approving the political  
6 activity of the committee, **as defined in Regulation 18402.1(b)**, will be considered the treasurer  
7 or treasurers and will be subject to all the duties set forth in ~~paragraph~~ subdivision (a) of this  
8 regulation.

9 Comment. This regulation sets out the duties of candidates and treasurers only with  
10 respect to campaign statements. Among the duties imposed by this regulation on candidates and  
11 treasurers with respect to committee campaign statements is to “cause to be checked, and, if  
12 necessary, corrected, any information . . . which a person of reasonable prudence would question  
13 based on all the surrounding circumstances of which the treasurer [candidate] is aware or should  
14 be aware by reason of his or her duties under this regulation and the Act.” The circumstances  
15 that trigger a duty to inquire under this standard are limited to those circumstances actually  
16 known to the candidate or treasurer and to those circumstances the candidate or treasurer of  
17 ~~which he or she~~ should be aware of in ~~by~~ carrying out his or her duties under the Act and  
18 regulation. They do not include circumstances a candidate or treasurer “might” or “should have  
19 known” if ~~he or she~~ the candidate or treasurer had gone beyond his or her required duties. For  
20 example, Mr. Jones ~~may give~~ gives Mr. Smith \$100 in cash and ~~instruct~~ instructs him to write a  
21 check to the candidate’s controlled committee and to conceal the true source of the contribution.

22 The committee reports the contribution ~~as~~ received from Smith. If neither the candidate nor  
23 treasurer has ~~any~~ knowledge ~~concerning~~ of the questionable nature of the contribution and

1 neither, through performance of their respective duties (such as monitoring campaign records or  
2 reviewing campaign statements), could have learned ~~any~~ facts that would lead one to question  
3 the contribution, the candidate and treasurer have no duty of inquiry with respect to the  
4 contribution. There is no duty of inquiry even though if Smith ~~were asked he~~ would have  
5 revealed the true source of the funds if he had been asked.

6 Once ~~the known~~ circumstances are ~~such~~ known that raise a question ~~is raised~~ concerning  
7 the accuracy of information on a campaign statement, an inquiry is required. It is not possible in  
8 a regulation to describe with particularity every factual situation that might trigger a duty to  
9 inquire because the ~~such an inquiry since the variety of~~ circumstances that could arise with  
10 respect to any particular campaign transaction are endless. For example, a duty to inquire may  
11 be triggered in the case of a contribution as a result of the ~~By way of example, however, such~~  
12 ~~circumstances might include the following in the case of a contribution:~~ The size of the  
13 contribution, the reported source, the likelihood of that source making a contribution of the size  
14 reported, the circumstances surrounding receipt, ~~and or~~ or the manner in which the contribution is  
15 recorded in campaign records.

16 The burden of inquiry is likely to fall more heavily upon the treasurer because it is ~~he~~ the  
17 treasurer, rather than the candidate, upon whom the major record keeping and reporting  
18 responsibility falls. Therefore, the treasurer is more likely than the candidate to be the person  
19 who, by reason of performance of duties, is aware of or should be aware of facts which would  
20 give rise to a duty of inquiry.

21 Note: Authority cited: Section 83112, Government Code. Reference: Sections 81004, 84100,  
22 84213 and 91004, Government Code.